

UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Johann Magg et al.
Application Number: 10/587,224
Filing Date: April 12, 2007
Group Art Unit: 3742
Examiner: Lindsey C. Teaters
Title: COFFEE MACHINE COMPRISING CONTINUOUS
HEATER

Mail Stop Appeal Brief - Patents

Commissioner for Patents

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REPLY BRIEF

This Reply Brief is in response to the Examiner's Answer issued July 26, 2010, and in further support of Appellants Appeal of the Final Rejection of the above-identified application.

I. Objections and Rejection of Claims 13, 14 and 18 on Formality Grounds

As noted in Appellant's Appeal Brief, the December 10, 2009 final Office Action objected to claims 13 and 14 and rejected claims 13, 14 and 18 under 35 U.S.C. §112, second paragraph, as allegedly indefinite. In an Amendment After Final Rejection filed February 4, 2010, which was entered by the Examiner, Appellants revised these claims to obviate the objection and the rejection under §112. In the Appeal Brief, Appellants requested clarification of the status of the objection and rejection under §112. Unfortunately, the Examiner's Answer did not provide any such clarification.

Appellants again respectfully request clarification of the status of claims 13, 14 and 18, and the formality objection and rejection under §112 in the Decision on this Appeal.

II. The Flattened Contact Surfaces

In the Appeal Brief, Appellants noted that independent claim 10 recites a water-guiding pipe thermally connected to two heating rods provided at opposite sides of the pipe by means of contact surfaces, and that claim 10 recites that all of the contact surfaces of the pipe and the heating rods are flat. Likewise, independent claim 19 recites a water-guiding pipe and two heating rods provided on opposite sides of the pipe and thermally connected to the pipe by corresponding contact surfaces, wherein all of the contact surfaces between the two heating rods and the pipe are flattened.

Appellants argued that none of the applied references show an arrangement where the contact surfaces on both the water pipe and heating rods are flattened.

In the Examiner's Answer, the Examiner appears to be arguing that in the Hufnagl reference, the solder used to attach the water tube 6 to the heating element 3 results in a "flattening" of the contact surface of the water tube 6. Appellants respectfully disagree.

No portion of Hufnagl, including the drawings, indicates that the solder used to connect Hufnagl's water tube 6 to the heating element 3 forms a flat surface. The Examiner is merely asserting this, without pointing to any support in the Hufnagl reference itself.

At column 4, lines 31-35, Hufnagl indicates that the heating element 3 is joined to the underside of the water pipe 6 by soldering, "thereby establishing [a] good thermal

conduction from the heating element 3 to the tube 6.” Also, at column 4, lines 43-47, Hufnagl indicates that the heating element 3 and the tube 6 “have the edges of the respective contact points soldered together...” However, no portion of Hufnagl indicates that the solder used to make this connection forms a flattened surface on the bottom of the water tube that is then in contact with the top of the heating element 3.

Moreover, the claims do not recite that some element interposed between the water pipe and the heating element forms a flat surface that is in contact with the heating element. Instead, the claims recite that it is the water pipe itself that has a flattened contact surface. So while Hufnagl may show interposing solder between the heating element 3 and the water tube 6 where they come together, Hufnagl clearly fails to show that the water pipe itself has a flattened contact surface that engages a flattened contact surface of a heating element.

For all the above reasons, it is respectfully submitted that the Examiner’s interpretation of the disclosure of Hufnagl, and how that disclosure applies to the claims, is improper.

Finally, while the Examiner’s Response to the Appellants’ arguments is somewhat difficult to understand, it appears that the Examiner might be arguing that the claims do not require that all of the contact surfaces on both the pipe and the heating elements be flattened. In other words, the Examiner might be arguing that the claims only require that the contact surfaces on the heating element be flattened, and that the claims do not require the contact surfaces on the pipe be flattened. Under this interpretation, presumably the claims would read on the Hufnagl device.

Applicants respectfully submit that such an interpretation of claims 10 and 19 contradicts the clear wording of the claims. Claim 10 unambiguously recites “wherein

all of the contact surfaces of the pipe and the heating rods are flat." Claim 19 unambiguously recites "wherein all of the contact surfaces between the two heating rods and the pipe are flattened." In light of the plain language of claims 10 and 19 quoted above, it is respectfully submitted that the claims must be interpreted to require that the contact surfaces of the pipe are flat, and that the contact surfaces of the heating rods are flat. Accordingly, the Examiner's apparent attempt to interpret the claims in some other fashion is inappropriate.

III. Conclusion

In view of the foregoing discussion, Appellants respectfully request reversal of the Examiner's rejection.

Respectfully submitted,

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